

FILED '08 OCT 06 16:39 USDC-ORN

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

LENNIE TY DAVIDSON,

Civ. No. 07-1304-CL

Plaintiff,

v.

ORDER

MULTNOMAH COUNTY SHERIFF,
et al.,

Defendants.

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Plaintiff has filed objections. I have given the file of this case de novo review. 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F. 2d 1309, 1313 (9th Cir. 1981).

Magistrate Judge Clarke concluded that plaintiff had shown only one negligent violation of the jail's rules on opening an

inmate's legal mail. Plaintiff objects, contending that he is entitled to discovery on whether defendants acted inadvertently. Plaintiff has not shown, however, that discovery would uncover specific facts which would preclude summary judgment. Maljack Prods. v. GoodTimes Home Video Corp., 81 F.3d 881, 888 (9th Cir. 1996). Because a single negligent incident, without more, does not establish a violation of plaintiff's constitutional rights, plaintiff cannot prevail on his claim under 42 U.S.C. § 1983. See Stevenson v. Koskey, 877 F.2d 1435, 1440-41 (9th Cir. 1989).

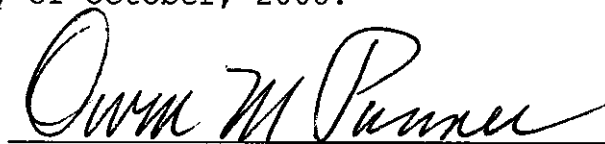
I find no error in the Report and Recommendation. Accordingly, I ADOPT the Report and Recommendation of Magistrate Judge Clarke.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#47) is adopted. Defendants' motion for summary judgment (#21) is granted and this action is dismissed.

IT IS SO ORDERED.

DATED this 6 day of October, 2008.

A handwritten signature in black ink, appearing to read "Owen M. Panner", is written over a horizontal line.

OWEN M. PANNER
U.S. DISTRICT JUDGE